

## **APPLICATION GUIDELINES**

### **APPLICATION TO SEVER AND TRANSFER**

In accordance with Arizona Revised Statutes (A.R.S.) §§ 41-1008 and 41-1079, the Arizona Department of Water Resources (Department), Water Rights Section, provides the following information regarding the application review process to assist applicants with an Application to Sever and Transfer.

#### **I. FEES**

**The initial application fee for an APPLICATION TO SEVER AND TRANSFER is \$2,000. Total fees for this application are based upon an hourly billable rate, which can be found on the ADWR Website @[www.azwater.gov](http://www.azwater.gov). If the costs of reviewing your application exceed \$2,000, you will be invoiced for the difference, up to a maximum total fee of \$65,000.** Payment may be made by cash, check, or credit card (if you wish to pay by credit card, please contact the Water Rights Section at 602-771-8621). Checks should be made payable to the Arizona Department of Water Resources. In addition to the hourly application fee, the applicant must pay any review-related costs associated with the application and the actual cost of mailing or publishing any legal notice of the application or notice of a pre-decision administrative hearing on the application. Review-related costs are: (1) costs associated with a pre-decision hearing on the application, such as court reporter services and facility rentals for the hearing, and (2) mileage expenses for a site visit conducted before issuing a decision on the application. **Failure to enclose the initial application fee will cause the application to be returned. Fees for an APPLICATION TO SEVER AND TRANSFER are authorized by Arizona Administrative Code (A.A.C.) R12-15-103.**

#### **II. STEPS FOR PROCESSING YOUR APPLICATION AND OBTAINING APPROVAL**

Before filing your application, the Department encourages you to contact Department personnel indicated at the end of these guidelines to discuss the application process and review criteria. If you wish, a meeting may be scheduled to facilitate this process. To assist you in understanding the substantive requirements for this application, a copy of A.R.S. § 45-172 is provided for your information.

It is imperative that you complete the application form in its entirety. An incomplete or incorrect application may result in a delay in processing your application. Please send the application to the address indicated on the form along with any required fees and supporting documentation. The Department suggests that you retain a copy of all documents that are submitted for review.

#### **III. TIME FRAMES FOR REVIEW OF YOUR APPLICATION**

Within 420 days after receipt of your application, the Department will determine whether your application should be granted or denied, unless this time is extended as described below. In processing your application, the Department will first determine whether the application is administratively complete (administrative completeness review) and then whether the application meets the substantive criteria established by statute or rule (substantive review). Each of these reviews will be completed within the times stated below. The time for the administrative completeness review plus the time for the substantive review is referred to as the overall time frame.

#### **A. Administrative Completeness Review Time Frame**

Within 30 days after receipt of your application, the Department will determine whether your application is complete and will issue a written notice of administrative completeness or deficiencies. After your application is complete, the Department will proceed with substantive review.

If the Department sends you a Notice of Deficiency, the Department will include a comprehensive list of specific deficiencies. Until the missing information is received, both the administrative completeness review and the overall time frames will be suspended. When the Department receives the missing information, the administrative completeness review and overall time frames will resume. Your application will not be complete until all of the requested information is received. If you do not supply the missing information within 60 days, the Department may deem your application withdrawn and close the file.

#### **B. Substantive Review Time Frame**

Within 390 days after the application is complete, the Department will review your application to determine whether it meets the substantive criteria required by statute or rule. By mutual written agreement between you and the Department, the time for substantive review may be extended by up to 105 days. In cases where a hearing is necessary prior to a decision, the substantive review time frame will be increased by 120 days.

During the substantive review, the Department may make one written request for additional information. You may also agree in writing to allow the Department to submit supplemental requests for additional information. If additional information is requested by the Department, both the substantive review and overall time frames will be suspended. When the additional information is received, the substantive review and overall time frames will resume.

At the end of the Department's substantive review, the Department will send you a written notice either granting or denying your application. If your application is denied, the notice will include the justification for the denial and an explanation of your right to appeal the denial.

### **AGENCY CONTACT**

Please direct any questions, comments, or requests for further assistance to the Water Rights Section at (602) 771-8621.

## ARIZONA REVISED STATUTE § 45-172

### § 45-172 - Transfer of Water Rights; Application; Limitations; Required Consent

- A. A water right may be severed from the land to which it is appurtenant or from the site of its use if for other than irrigation purposes and with the consent and approval of the owner of such right may be transferred for use for irrigation of agricultural lands or for municipal, stockwatering, power, and mining purposes and to the state or its political subdivisions for use for recreation and wildlife purposes, including fish, without losing priority theretofore established, subject to the following limitations and conditions:
1. Except as otherwise provided in this section no such severance or transfer shall be made unless approved by the director and the approval of the director shall prescribe the conditions of the approval.
  2. Vested or existing rights to the use of water shall not be affected, infringed upon, nor interfered with, and in no event shall the water diverted or used after the transfer of such rights exceed the vested rights existing at the time of such severance and transfer, and the director shall by order so define and limit the amount of water to be diverted or used annually subsequent to such transfer.
  3. The water rights sought to be transferred shall have been lawfully perfected under the laws of the territory or the state of Arizona and shall not have thereafter been forfeited or abandoned.
  4. No such severance or transfer of water rights shall be permitted or allowed from lands within the exterior boundaries of any irrigation district, agricultural improvement district, or water users' association without first having obtained the written consent and approval of such irrigation district, agricultural improvement district, or water users' association.
  5. No right to the use of water on or from any watershed or drainage area which supplies or contributes water for the irrigation of lands within an irrigation district, agricultural improvement district, or water users' association shall be severed or transferred without the consent of the governing body of such irrigation district, agricultural improvement district, or water users' association. All proposed applications for the severance and transfer of a right to use water of or from any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district, agricultural improvement district, or water users' association shall be submitted to the governing body of such irrigation district, agricultural improvement district, or water users' association prior to the filing of such application with the director. Within forty-five days after the receipt of the application, such governing body shall reject or approve the proposed application. Failure of such governing body to approve or reject the proposed application within forty-five days after receipt shall constitute approval of the proposed application by such governing body. No application for the severance or transfer of a right to the use of water of or from any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district, agricultural improvement district, or water users' association shall be accepted for filing by the director unless accompanied by the written consent of the governing body of such irrigation district,

agricultural improvement district, or water users' association to the proposed application or by satisfactory evidence that such governing body failed to either accept or reject the proposed application within forty-five days after receipt by such governing body.

6. A severance and transfer of an irrigation water right appurtenant to lands within the boundaries of an irrigation district to other lands within the boundaries of the same irrigation district for agricultural use may be accomplished by the exclusion of lands to which a water right is appurtenant from within the boundaries of an irrigation district and the inclusion in lieu of other lands within the boundaries of such irrigation district. Such severance and transfer of a water right shall require the consent of only the irrigation district within which the affected lands are situated and of the owners of the lands affected by the severance and transfer. No proceedings before nor approval by the director shall be required to accomplish such severance and transfer.
  7. An application for severance and transfer of a water right shall be filed with the director. The director shall give notice of the application by publication once a week for three successive weeks in a newspaper of general circulation in the county or counties in which the watershed or drainage area is located. The notice shall state that any interested person may file written objections to the proposed severance and transfer with the director within thirty days after the last publication of the notice. In appropriate cases, including cases in which an objection has been filed, an administrative hearing may be held before the director's decision on the application if the director deems a hearing necessary.
- B. Section 45-114, subsections A and B, govern administrative proceedings, rehearing or review, and judicial review of final decisions of the director under this section.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
WATER RIGHTS SECTION**

**MAIL TO: 3550 North Central Avenue  
Phoenix, Arizona 85012-2105**

Telephone (602) 771-8621

Fax (602) 771-8688

**(For office use only)**

Registry No: \_\_\_\_\_

Date Filed: \_\_\_\_\_

**APPLICATION TO SEVER AND TRANSFER  
(To be completed by transferee)**

1. Applicant \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

2. Registry number of right(s) or claim(s) being severed or transferred \_\_\_\_\_

3. Check one box only:

☐ Total Severance and Transfer

☐ Partial Severance and Transfer

**INFORMATION REGARDING RIGHT OR CLAIM TO BE SEVERED AND TRANSFERRED**

4. Is applicant the current holder of the right? Yes \_\_\_\_\_ No \_\_\_\_\_

5. Type of water source and name \_\_\_\_\_

a tributary to \_\_\_\_\_ within the \_\_\_\_\_ watershed  
(For office use only)

6. Location of point of water diversion: County \_\_\_\_\_

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

7. Location of place(s) of water use: County \_\_\_\_\_

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

8. Location of water storage: County \_\_\_\_\_ Authorized storage volume \_\_\_\_\_

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

9. Water has been used each year from \_\_\_\_\_ to \_\_\_\_\_  
(Day/Month) (Day/Month)

Water has been stored each year from \_\_\_\_\_ to \_\_\_\_\_  
(Day/Month) (Day/Month)

10. Describe diversion works

11. Water is used for the following purposes in the following amounts:

- |  |                                |                |
|--|--------------------------------|----------------|
| <input type="checkbox"/> Irrigation    | Number of acres _____          | Quantity _____ |
| <input type="checkbox"/> Stockwatering | Number and type of stock _____ | Quantity _____ |
| <input type="checkbox"/> Domestic      | Number served _____            | Quantity _____ |
| <input type="checkbox"/> Other         | Description _____              | Quantity _____ |

12. Was there any consecutive five year period when water was not beneficially used? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, describe when and why

### INFORMATION REGARDING PROPOSED TRANSFER

13. Type of water source and name

a tributary to \_\_\_\_\_ within the \_\_\_\_\_ watershed  
(For office use only)

14. Location of point of water diversion: County

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

15. Location of place(s) of water use: County

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

16. Location of water storage: County \_\_\_\_\_ Storage volume \_\_\_\_\_

Lot \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

17. Water to be used each year from \_\_\_\_\_ to \_\_\_\_\_  
(Day/Month) (Day/Month)

Water to be stored each year from \_\_\_\_\_ to \_\_\_\_\_  
(Day/Month) (Day/Month)

18. Describe diversion works

19. Water to be used for the following purposes in the following amounts:

- |  |                                |  |
|--|--------------------------------|--|
| <input type="checkbox"/> Irrigation    | Number of acres _____          | Quantity _____                                 |
| <input type="checkbox"/> Stockwatering | Number and type of stock _____ | Quantity _____                                 |
| <input type="checkbox"/> Municipal     | Number served _____            | Quantity _____                                 |
| <input type="checkbox"/> Power         | Quantity _____                 | <input type="checkbox"/> Mining Quantity _____ |

20. Is the current place of use located within an irrigation or agricultural improvement district or water users association?

Yes \_\_\_\_\_

No \_\_\_\_\_

If yes, written consent of such district or association to the proposed transfer must be obtained and attached.

21. Is the water source on or from a watershed or drainage area which supplies or contributes water for the irrigation of lands within an irrigation or agricultural improvement district or water users' association?

Yes \_\_\_\_\_

No \_\_\_\_\_

If yes, you must obtain and attach written consent from such organization or provide evidence that the application is approved by default due to failure of the governing body to approve or reject within the statutory time frame.

22. If only a portion of the original water right is proposed for transfer, explain the status of the remaining portion as to its use or abandonment.

23. Provide any additional information to explain the proposed transfer.

**24. REQUIRED ATTACHMENTS:**

- ☐ **Initial Application Fee** of \$2,000 as authorized by A.A.C. R12-15-103.
- ☐ **Consent of Holder of Right or Claim:** Must be provided if applicant is not the current holder of record of the right or claim proposed for severance and transfer.
- ☐ **Written Consent:** Must be attached if the existing right or claim has place(s) of use located within an irrigation or agricultural improvement district or water users' association.
- ☐ **Written Consent or Evidence Supporting Approval by Default:** Must be attached if the existing right or claim has a water source on or from a watershed or drainage area which supplies or contributes water for irrigation of lands within an irrigation or agricultural improvement district or water users' association.
- ☐ **Copy of recorded deed** showing land ownership. If owned by other than applicant, provide copies of all pertinent leases, grazing permits, allotments, or a letter from the landowner.

**Submit the completed application with the initial application fee and any supporting or required documents to:  
Arizona Department of Water Resources, Water Rights Section, 3550 North Central Avenue, Phoenix, Arizona 85012-2105.**

**The undersigned hereby acknowledges the information contained in this application to be true and correct to the best of his or her knowledge at the time of filing.**

\_\_\_\_\_  
Signature of Applicant/Representative  
(if representative, include authorization)

\_\_\_\_\_  
Date

## **INSTRUCTIONS**

### **APPLICATION TO SEVER AND TRANSFER**

This application is to be submitted for proposed changes in the location of place(s) of use of a surface water right or claim as described by A.R.S. § 45-172 and should be completed by the entity who will ultimately hold the water right. Any proposed changes in the type of use or point of diversion of the water must also be indicated on this form.

The following instructions are referenced by number to the questions on the application form.

1. Complete name of applicant, current mailing address with zip code, and telephone number. The application should be completed by the transferee.
2. The applicant must fill in the registry number of the existing right(s) or claim(s) being proposed for severance and transfer. The registry number should be prefixed with one of the following: 33, 38, 36, 4A, 3R, or CWR.
3. Indicate whether this application is for severance and transfer of the entire right or claim or for a portion of the right or claim. If total severance and transfer is indicated, no portion of the right will be retained at the original place of use or point of diversion. Partial would be selected if some portion of the right or claim will be retained at the original place of use or point of diversion; that portion will need to be described further in question 21 of the application.
4. Mark the appropriate response. If the answer is NO, a signed written consent of the current right holder must be attached to the application.
5. Give the name of the direct source of surface water and the type of source as it is described on the right or claim proposed for severance and transfer.
6. Give the legal land description for the location of the point of diversion as it is described on the right or claim proposed for severance and transfer.
7. Give the legal land description for the location of the place(s) of use as described on the right or claim proposed for severance and transfer. Additional place(s) of use can be included on an attachment if necessary.
8. If applicable, give the legal land description for the location of any authorized water storage as described on the right or claim proposed for severance and transfer. Also provide the authorized storage volume.
9. Provide the months water is beneficially used or stored as described on the right or claim proposed for severance or transfer.
10. If applicable, provide a written description of the existing diversion works.
11. Indicate the type(s) of use described on the right or claim proposed for severance and transfer in addition to the number and unit of measure and the quantity of water being utilized.
12. Mark the appropriate response. If YES, provide information regarding periods of non-use of water.
13. Give the name of the direct source of surface water and the type of source if different from the source on the right or claim proposed for severance and transfer. If the source will not change, write SAME.
14. Give the legal land description for the location of the point of diversion for the proposed transfer. If the point of diversion will not change, write SAME.



15. Give the legal land description for the location of the place(s) of use for the proposed transfer. Additional place(s) of use can be included on an attachment if necessary.
16. If applicable, give the legal land description for the location of any proposed water storage.
17. Provide the months water will be beneficially used or stored.
18. If applicable, provide a written description of the proposed diversion works.
19. Indicate the type(s) of use associated with the proposed transfer. Per A.R.S. § 45-172, a water right may be transferred for irrigation, municipal, stockwatering, power, and mining uses if the transfer is being proposed by a non-state entity or for recreation and wildlife uses if the transfer is being proposed by the state or its political subdivisions.
20. Mark the appropriate response. If YES, written consent of the irrigation or agricultural improvement district or the water users' association must be attached to this application.
21. Mark the appropriate response. If YES, the following restrictions apply. Per A.R.S. § 45-172(5), a right which has a water source on or from a watershed or drainage area which supplies or contributes water for the irrigation of lands within an irrigation or agricultural district or water users' association cannot be severed and transferred without the consent of the governing body of the irrigation or agricultural district or water users' association. All proposed applications for severance and transfer shall be submitted to the governing body who shall reject or approve the application within forty-five (45) days. If the governing body fails to approve or reject the application within the 45 day time period, the application is approved by default. The Department will not accept applications which meet the described parameters without written consent of the governing body or evidence that such body failed to accept or reject the application in the statutory time frame. Such evidence would typically include copies of submitted documents with certified mail return receipts.
22. If applicable, describe in detail the status of any portion of the existing right or claim which is not being severed and transferred.
23. Provide any additional information that will support this application.